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10/805,325

03/22/2004

Robert Meurer

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07/13/2004

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2000 M STREET NW SUITE 700  
WASHINGTON, DC 20036-3307

EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/805,325

Applicant(s)

MEURER, ROBERT

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 6 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/22/04
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Specification***

1. The disclosure is objected to because of the following informalities:

Page 5, line 1 of paragraph 0020 "The scarifier 26" should be changed to -The scarifier 22—.

Appropriate correction is required.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 9, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muerer '863 in view of Ihm.

Muerer '863 discloses a device providing a combined bucket and scarifier comprising:

a bucket (12) having a bottom wall (14), a rear wall (16), and two side walls (17, 18) coupled to the bottom wall (14) and the rear wall (16) to define an interior space, the bucket (12) having an open front end and the rear wall (14) being generally rectangular having a long axis, a scarifier (26) operatively associated with the bucket (12), the scarifier (26) having a plurality of teeth (28) constructed and arranged to be moved with respect to the bucket (12) between a stored, inoperative position, and an operative position with portions of the teeth (28) extending outwardly with respect to a portion of the bottom wall (14) of the bucket (12), and actuating

Art Unit: 3671

structure (32) mounted with respect to the bucket (12), the actuating structure (32) including at least one cylinder unit (33) having a piston (38), and linkages (36) coupled between the piston (38) and teeth (28) such that movement of the piston (33) causes movement of the linkages (36) thereby causing movement of the teeth (28) between the inoperative and operative positions, as per claim 1; and

wherein the actuating structure is constructed and arranged to rotate the teeth simultaneously to move the teeth between the inoperative and operative positions, as per claim 4.

However, Muerer '863 fails to disclose wherein the cylinder unit is mounted with respect to the rear wall such that the piston extends generally along the long axis of the rear wall, as per claim 1; and

wherein the rear wall includes a top edge, the cylinder unit being mounted to the top edge, as per claim 2; and

wherein the piston is constructed and arranged such that when the piston is extended, the teeth are in the inoperative position and when the piston is retracted, the teeth are in the operative position, as per claim 9; and

wherein the cylinder unit is constructed and arranged to be hydraulically operated, as per claim 11; and

wherein a side of the cylinder unit is substantially flush with the rear wall, as per claim 12.

Ihm discloses a similar device wherein the cylinder unit (2) is mounted with respect to the rear wall (unnumbered, see figure 1) such that the piston (2) extends generally along the long axis of the rear wall, as per claim 1; and

Art Unit: 3671

wherein the piston (2) is constructed and arranged such that when the piston (2) is extended, the teeth (14) are in the inoperative position (see figure 9) and when the piston (2) is retracted, the teeth (14) are in the operative position (see figure 10), as per claim 9; and

wherein the cylinder unit (2) is constructed and arranged to be hydraulically operated, as per claim 11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the longitudinally extended cylinder of Ihm on the device of Muerer '863 in order to disperse force all along the array of the tool.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the cylinder on the top edge of the rear wall, as per claim 2, or flush with the rear wall, as per claim 12, since it has been held that rearranging parts of an invention involves only routine skill in the art.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muerer '863 in view of Ihm as applied to claim 1 above, and further in view of Pratt.

The device is disclosed as applied above. However, the combination fails to disclose wherein in the operative position thereof, the teeth extend at an angle with respect to the bottom wall such that distal ends of the teeth face rearward.

Pratt discloses a similar device wherein the teeth (31) extend at an angle with respect to the bottom wall (16) such that distal ends of the teeth (31) face rearward.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rearward facing teeth of Pratt on the device of Muerer '863 and Ihm in order to enhance the penetrability of the tool.

5. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muerer '863 and Ihm as applied to claim 1 above, and further in view of Lindstrom.

The device is disclosed as described above. Ihm further discloses wherein the piston (2) and linkages (41, 42, 46) are constructed and arranged such that when the piston (2) is extended, the teeth (14) are in the inoperative position (see figure 9) and when the piston (2) is retracted, the teeth (14) are in the operative position (see figure 10), as per claim 7.

However, the combination fails to disclose wherein the teeth are coupled to a common rotatable shaft, the linkages being constructed and arranged to transfer linear motion of the piston to rotational motion to rotate the common rotatable shaft, as per claim 5.

Lindstrom discloses a similar device including linkages being constructed and arranged to transfer linear motion of the piston (52) to rotational motion to rotate the common rotatable shaft (24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the motion transfer of Lindstrom on the device of Muerer '863 and Ihm in order to rotate a blade.

Art Unit: 3671

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muerer '863 in view of Ihm as applied to claim 1 above, and further in view of Muerer '650.

The device is disclosed as applied above. However, Muerer '863 and Ihm fail to disclose wherein the bottom wall includes a generally planar portion and a portion extending upwardly at an angle with respect to the planar portion defining a space at bottom of the bucket, at least a portion of the teeth being disposed in the space when in the inoperative position, and extending from the space when in the operative position.

Muerer '650 discloses a similar device wherein the bottom wall (14) includes a generally planar portion and a portion extending upwardly at an angle with respect to the planar portion defining a space (24') at bottom of the bucket (12'), at least a portion of the teeth (28) being disposed in the space (24') when in the inoperative position, and extending from the space (24') when in the operative position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the space of Muerer '650 on the device of Muere '863 and Ihm in order to prevent obstruction of the smooth surface of the bottom wall.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muerer '863 in view of Ihm as applied to claim 1 above, and further in view of Staben, Jr., hereafter Staben.

The device is disclosed as applied above. However, the combination fails to disclose wherein mounting structure is provided on the rear wall, the mounting structure being constructed and arranged to removably coupled the device to a loader.

Art Unit: 3671

Staben discloses a similar device wherein mounting structure (48, 54) is provided on the rear wall (62), the mounting structure (48, 54) being constructed and arranged to removably coupled the device (12) to a loader (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the mounting structure of Staben on the device of Muerer '863 and Ihm in order to accommodate relatively rapid disassembly of the work attachment from the adapter mounting plate.

#### ***Allowable Subject Matter***

8. Claims 6 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bronson et al. and Wass have been cited as of interest.

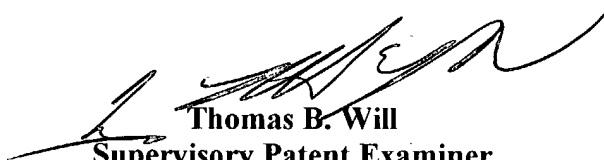
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.



Art Unit: 3671

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
July 9, 2004